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Electronically Filed May 12, 2014

9 **UNITED STATES BANKRUPTCY COURT**

10 **DISTRICT OF NEVADA**

11 In re

12 MARTIFER AURORA SOLAR, LLC, a
13 Nevada limited liability company,

- 14 ☐ Affects Martifer Aurora Solar, LLC
15 ☐ Affects Martifer Solar USA, Inc.
16 ☒ Affects all Debtors

Case Nos. BK-S-14-10355-abl and
BK-S-14-10357-abl

Jointly Administered under
Case No. BK-S-14-10355-abl

Chapter 11

17 **FOX ROTHSCHILD LLP'S**
18 **FIRST INTERIM APPLICATION FOR**
19 **COMPENSATION AND**
20 **REIMBURSEMENT OF EXPENSES**
21 **FOR THE INTERIM FEE PERIOD**
22 **FROM JANUARY 21, 2014 THROUGH**
23 **APRIL 30, 2014**

Hearing Date: June 9, 2014
Hearing Time: 9:30 a.m.

FOX ROTHSCHILD LLP
3800 Howard Hughes Parkway, Suite 500
Las Vegas, Nevada 89169
(702) 262-6899
(702) 597-5503 (fax)

Name of Applicant:	Fox Rothschild LLP
Authorized to Provide Professional Services to:	Martifer Aurora Solar, LLC and Martifer Solar USA, Inc.
Date of Retention:	January 21, 2014
Period for which Compensation and Reimbursement is sought:	January 21, 2014 through April 30, 2014
Amount of Fees requested for approval and allowance as actual, reasonable, and necessary:	\$1,613,005.90
Amount of Expense Reimbursement requested for approval and allowance as actual, reasonable, and necessary:	\$19,562.48
Total Compensation requested:	\$1,632,568.38

This is a(n): ☒ interim application | ☐ final application

MONTHLY FEE APPLICATION SUMMARY

Application Period	Fees Incurred ¹ (100%)	Expenses Incurred (100%)	Total Fees & Costs (100% Fees + 100% Costs)
Jan. 21, 2014 through Jan. 31, 2014	\$206,120.00	\$2,334.28	\$208,454.28
Feb. 1, 2014 through Feb. 28, 2014	\$414,125.30	\$2,342.14	\$416,467.44
March 1, 2014 through March 30, 2014	\$550,334.50	\$12,660.46	\$562,994.96
April 1, 2014 through April 30, 2014	\$442,426.10	\$2,225.60	\$444,651.70
TOTALS	\$1,613,005.90	\$19,562.48	\$1,632,568.38

¹ These amounts were derived after voluntary reductions of fees incurred by Fox in the amount of \$154,921.45 prior to finalization of the Invoices and a courtesy discount of fees incurred in the amount of \$97,646.40. Additionally, these amounts do not reflect \$89,276.25 in fees incurred by Fox's contract attorney, Nathan Schultz (the "Schultz Fees"), however Fox reserves the right without prejudice to seek those fees at a later date.

SUMMARY OF PROFESSIONALS AND PARAPROFESSIONALS

January 21, 2014 through April 30, 2014

ATTORNEY	HOURLY RATE	APPLICATION HOURS ²	TOTAL FEES
Brett A. Axelrod, Esq. – Partner	\$675	402.3	\$271,350.50
Dawn M. Cica, Esq. – Partner	\$550	694.2	\$379,170.30
Dawn M. Cica, Esq. – Partner	\$275 ³	3.0	\$825.00
Micaela Rustia Moore, Esq.–Partner	\$460	663.7	\$303,600.00
Neal S. Cohen, Esq. – Partner	\$520	85.9	\$44,668.00
Emily J. Yukich, Esq. – Partner	\$510	43.8	\$22,338.00
Hal L. Baume, Esq. – Partner	\$690	15.6	\$10,764.00
Matthew J. Rita, Esq. – Partner	\$500	14.1	\$7,050.00
Aaron Craig, Esq. – Partner	\$460	7.3	\$1,472.00
Nancy Yaffe, Esq. – Partner	\$485	7.0	\$3,395.00
Catherine V. Wadhwani, Esq. – Partner	\$380	4.1	\$1,558.00
Bradley Rodos, Esq. – Partner	\$565	1.6	\$904.00
Mark J. Connot, Esq. – Partner	\$465	1.3	\$604.50
Alka Bahal, Esq. – Partner	\$495	0.5	\$245.00
Christopher J. Dawes, Esq. – Partner	\$325	0.4	\$130.00
Charles D. Axelrod, Esq. – Of Counsel	\$845	336.9	\$284,680.50
Audrey Noll, Esq. – Of Counsel	\$500	276.6	\$138,300.00
Jason W. Sapsin, Esq. – Of Counsel	\$400	2.5	\$1,000.00
Kevin M. Sutehall, Esq. – Associate	\$360	126.9	\$43,812.00
Tara H. Popova, Esq. – Associate	\$280	117.7	\$27,356.00
Tara H. Popova, Esq. – Associate	\$140 ⁴	21.4	\$2,996.00
Tracy A. Gallegos, Esq. – Associate	\$400	46.7	\$18,680.00
Rachel Silverstein, Esq. – Associate ⁵	\$295	30.4	\$0.00
John H. Gutke, Esq. – Associate	\$330	2.6	\$858.00
Aili C. Monahan, Esq. – Associate	\$325	3.2	\$0.00
Subtotal		2,909.7	\$1,565,756.80

² Hours noted include hours worked where client was not charged for the time.³ Travel time billed at 50% of regular hourly rate.⁴ Travel time billed at 50% of regular hourly rate.⁵ As of February 27, 2014, Rachel Silverstein was no longer an associate of Fox.

Blended Rate (Attorneys only)⁶	\$538.12		
PARAPROFESSIONAL	HOURLY RATE	APPLICATION HOURS	TOTAL FEES
Patricia M. Chlum – Paralegal	\$285	454.4	\$128,449.50
Monica Metoyer – Paralegal	\$285	2.2	\$0.00
Debra K. Eurich – Paralegal	\$225	63.1	\$14,197.50
Carol S. Donahue – Paralegal	\$195	8.3	\$1,287.00
Sandra Rodgers – Paralegal	\$185	3.5	\$647.50
Jacob Rainwater – Research Analyst	\$100	3.7	\$170.00
Grace Boivin – Sr. Research Analyst	\$120	2.7	\$84.00
Erin O’Shea – Research Analyst	\$100	2.3	\$0.00
Theresa Tarves – Research Manager	\$135	1.1	\$0.00
Karen Callaghan – Sr. Research Analyst	\$120	0.5	\$60.00
Subtotal		541.8	\$144,895.50
		APPLICATION HOURS	TOTAL FEES
Total		3,451.5	\$1,710,652.30
Less Courtesy Reductions Taken			(\$97,646.40)
GRAND TOTAL		3,451.5	\$1,613,005.90
Combined Blended Rate⁷ (Attorneys and Paraprofessionals)	\$467.33		

SUMMARY OF DISBURSEMENTS

January 21, 2014 through April 30, 2014

EXPENSES	RATE	TOTAL FEES
Telephone Charges	Actual Cost	\$1,051.19
Westlaw/LEXIS Research	Contracted Rate	\$4,575.22
Witness Fee	Actual Cost	\$50.00
Messenger	Contracted Rate	\$921.39
Federal Express	Actual Cost	\$250.81

⁶ This blended rate for attorneys only does not reflect the voluntary reductions taken by Fox prior to finalization of the Invoices or the Schultz Fees in the amount of \$89,276.25.

⁷ This blended rate does not reflect the voluntary reductions taken by Fox prior to finalization of the Invoices. The total number of hours expended for the First Interim Fee Period, prior to finalization of the Invoices and excluding the time of Nathan Schultz, was 3,630.8. Taking this into consideration, the combined blended rate for attorneys and paraprofessionals is **\$444.26**.

EXPENSES	RATE	TOTAL FEES
Photocopy Charges	Actual Cost	\$565.20
Outside Vendor Photocopies and Postage	Actual Cost	\$6,634.22
Information/Research (includes PACER)	Contracted Rate	\$1,343.90
Court Fees/Filings	Actual Cost	\$813.09
Travel Expense	Actual Cost	\$155.50
Out-of-town Travel Expense	Actual Cost	\$2,108.91
Business Meetings/Meals	Actual Cost	\$480.41
Serve Process	Actual Cost	\$120.00
Subpoena Service	Actual Cost	\$492.64
TOTAL		\$19,562.48

Pursuant to sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Court’s local rules of bankruptcy practice and procedure (the “Local Rules”), the guidelines (the “Guidelines”) adopted by the Office of the United States Trustee (the “UST”), the *Order Authorizing Retention and Employment of Fox Rothschild LLP as Debtors’ Counsel Nunc Pro Tunc to the Petition Date* [Docket No. 487] (the “Fox Retention Order”) and the *Order Pursuant to 11 U.S.C. §§ 105(a) and 331, and Fed. R. Bankr. P. 2016 Authorizing and Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 630] (the “Interim Compensation Procedures Order”), Fox Rothschild LLP (“Fox” or “Applicant”), as counsel to Martifer Solar USA, Inc. and Martifer Aurora Solar, LLC (together, the “Debtors”), debtors and debtors in possession in the above-captioned jointly administered chapter 11 cases (the “Chapter 11 Cases”), hereby files this application (the “First Interim Fee Application”) seeking entry of an order approving the allowance and authorizing Debtors’ payment of interim compensation for the full amount of fees incurred for professional services rendered to Debtors and reimbursement for expenses paid from January 21, 2014 through April 30, 2014 (the “First Interim Fee Period”) totaling \$1,632,568.38 (the “Requested Compensation”).

During the First Interim Fee Period, Fox incurred \$1,613,005.90⁸ in fees for professional

⁸ This amount reflects a voluntary write-off of \$252,567.85 in fees, which includes \$154,921.45 (footnote continued)

1 services rendered and paid \$19,562.48 in actual and necessary expenses. This First Interim Fee
 2 Application seeks an order approving, allowing and authorizing Debtors' payment of the
 3 Requested Compensation.

4 This First Interim Fee Application is based upon the Declaration of Brett Axelrod (the
 5 "Axelrod Declaration") filed in support hereof and incorporated herein by these references, all
 6 other papers and pleadings filed in the above-captioned Chapter 11 Cases, and upon the following
 7 representations:

8 BACKGROUND

9 1. On January 21, 2014 (the "Petition Date"), each of the Debtors filed a voluntary
 10 petition for relief under chapter 11 of the Bankruptcy Code.

11 2. The Court has jurisdiction over this First Interim Fee Application, pursuant to 28
 12 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
 13 Venue of Debtors' Chapter 11 Cases and this First Interim Fee Application is proper under 28
 14 U.S.C. § 1408 and 1409. The statutory predicates for the relief sought herein are sections 330 and
 15 331 of the Bankruptcy Code.

16 3. Fox was retained effective as of January 21, 2014 by the Fox Retention Order. The
 17 Fox Retention Order authorized Fox to be compensated on an hourly basis and to be reimbursed for
 18 actual and necessary costs and expenses incurred in connection with these Chapter 11 Cases in
 19 accordance with Bankruptcy Code sections 330 and 331, the Bankruptcy Rules, applicable Local
 20 Rules, and any applicable regulations and orders with respect to the foregoing that may be
 21 applicable to these Chapter 11 Cases.

22 COMPENSATION PAID AND ITS SOURCE

23 4. All services for which Fox requests compensation were performed for or on behalf of
 24 Debtors in furtherance of their duties under the Bankruptcy Code as debtors-in-possession.

25 5. During the First Interim Fee Period, Fox has received \$0 from Debtors.

26 _____
 27 in fees written-off prior to the Invoices being finalized and a courtesy reduction of \$97,646.40, but
 28 does not reflect the Schultz Fees in the amount of \$89,276.25.

6. There is no payment and no promises for payment from any source for services rendered or yet to be rendered in any capacity whatsoever in connection with the matters covered by this First Interim Fee Application. Further, there is no agreement or understanding between Fox and any other person other than the equity holders of Fox for the sharing of compensation to be received for services rendered in these Chapter 11 Cases.⁹

FEE STATEMENTS

7. Fox maintains daily time logs (the “Invoices”) detailing time spent by each attorney and paraprofessional who rendered professional services to or on behalf of Debtors during the First Interim Fee Period. These daily time logs are maintained in the ordinary course of Fox’s practice and are attached for the Court’s convenience as **Exhibit 1** to the Axelrod Declaration. The compensation requested by Fox is based upon the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code. This First Interim Fee Application complies with sections 330 and 331 of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Guidelines adopted by the Office of the United States Trustee, and the Interim Compensation Procedures Order.

ACTUAL AND NECESSARY EXPENSES

8. The Invoices attached to the Axelrod Declaration contain summaries and daily logs of the actual and necessary expenses paid by Fox during the First Interim Fee Period.

9. In connection with the reimbursement of actual, reasonable and necessary expenses, it is Fox’s policy to charge its clients in all areas of practice for expenses, other than fixed and

⁹ As described in the Application for Order Authorizing Retention and Employment of Fox Rothschild LLP as Debtors’ Counsel *Nunc Pro Tunc* to the Petition Date [Docket No. 134], Fox, from time to time, utilizes the services of outside attorneys employed on a contract basis. Prior to the Petition Date, Fox utilized the services of Nathan A. Schultz in connection with its representation of Debtors. Fox has utilized the services of Mr. Schultz on the same contract basis in connection with its representation of Debtors in these Chapter 11 Cases. Fox bills Debtors for Mr. Schultz’s time as legal services, not as an expense, at an hourly rate (\$525) that is commensurate with the rates of Fox attorneys of similar seniority and experience. Because the Court denied without prejudice the employment of Mr. Schultz [Docket No. 487], Fox has not included the fees billed by Mr. Schultz (“Schultz Fees”) in this Application, but reserves the right to seek those fees at a later date.

1 routine overhead expenses, incurred in connection with representing its clients. The expenses
 2 charged to Fox's clients include, among other things, telephone and telecopier toll and other
 3 charges, mail and express mail charges, document word-processing charges, photocopying charges,
 4 out-of-town travel expenses, local transportation expenses, expenses for working meals,
 5 computerized research, transcription costs, as well as non-ordinary overhead expenses particularly
 6 attributable to an individual client or cases such as secretarial and other overtime.

7 10. Fox charges Debtors' estates for these expenses at rates consistent with those
 8 charged to Fox's other bankruptcy clients, which rates are equal to or less than the rates charged by
 9 Fox to its non-bankruptcy clients, including photocopying expenses at fifteen cents per page.
 10 Actual long-distance carrier charges for outgoing facsimile transmissions are reflected in the long-
 11 distance telephone charges.

12 11. Fox regularly charges its non-bankruptcy clients for ordinary business hour fees and
 13 expenses for secretarial, library, word processing, and other staff services because such items are
 14 not included in the firm's overhead for the purpose of setting the billing rates. Fox has incurred, but
 15 has not charged Debtors' estates, expenses for word processing or secretarial overtime.

16 12. With respect to providers of online legal research (e.g., Lexis and Westlaw), Fox
 17 charges all of its clients the standard usage rates these providers charge, which, due to contractual
 18 flat fees, may not always equal Fox's actual cost. Fox currently is under contract to pay these
 19 providers a flat fee every month. Charging its clients the online providers' standard usage rates
 20 allows Fox to adequately cover the monthly flat fees it must pay to these types of providers.

21 13. Fox believes the foregoing rates are the market rates that the majority of law firms
 22 charge their clients for such expenses. In addition, Fox believes that such charges are in accordance
 23 with the American Bar Association's ("ABA") guidelines, as set forth in the ABA's Statement of
 24 Principles, dated January 12, 1995, regarding billing for disbursements and other charges.

25 SUMMARY OF SERVICES RENDERED

26 14. The primary Fox partners, of counsel and associates who rendered professional
 27 services to or on behalf of Debtors in these Chapter 11 Cases are as follows: Brett A. Axelrod,
 28 Charles D. Axelrod, Dawn M. Cica, Neal H. Cohen, Emily Yukich, Micaela Rustia Moore, Audrey

Noll, Kevin Sutehall and Tara H. Popova. Other Fox attorneys have rendered services on discrete matters from time to time, as necessary.

15. Fox has advised and assisted Debtors and its professionals in connection with (a) the execution of its duties under the Bankruptcy Code as a debtor-in-possession; (b) legal research into Nevada law and bankruptcy law as related to Debtors' investigation into the acts, conduct, pleadings and claims filed by parties in these Chapter 11 Cases and the execution of Debtors' strategies consistent with its goal of maximizing recovery for the estates and its creditors; (c) drafting and filing of papers and pleadings in these Chapter 11 Cases on behalf of Debtors and their professionals, including delivery of courtesy copies to the Court, pursuant to the Local Rules, and communications with Court staff on administrative matters; and (d) such other legal services as requested or directed by Debtors to the extent not duplicative of Debtors' other professionals.

16. In addition to the above, Fox has also performed all necessary professional services described and narrated in detail in the Invoices attached as Exhibit 1 to the Axelrod Declaration.

17. To provide an orderly and meaningful summary of the services rendered by Fox on behalf of Debtors, Fox has established the following separate project billing categories in connection with these Chapter 11 Cases:

TASK CODE	DESCRIPTION
AA	Asset Analysis & Recovery
AP	Litigation and Adversary Proceedings
BO	Business Operations
CA	Case Administration
CH	Court Hearings
CI	Creditor Inquiries
CR	Cash Collateral/DIP Financing
DS	Disclosure Statement
EA1	Employment Application of Fox Rothschild LLP
EA2	Employment Application of Other Professionals
EB	Employee Matters
EC	Lease/Executory Contract Issues
FA1	Fee Application of Fox Rothschild
FA2	Fee Application of Other Professionals
MA	General Corporate Matters

TASK CODE	DESCRIPTION
MC	Meeting of Creditors
MR	Stay Relief Matters
PC	Claims, Analysis, Objections & Resolutions
PL	Plan
SA	Use, Sale Or Lease of Property
TR	Trustee Reporting/Schedules
IC	Intra Office Conferences/Multi Person Activities
TV	Travel
TX	Tax/505
106375.1	Commercial Contracts
106375.3	Jeffco Mediation
106375.6	Energy Equipment Ltd. Litigation

SUMMARY OF SERVICES BY CATEGORY

18. Fox believes that every professional employed on behalf of a debtor in a chapter 11 case has a responsibility to control fees and expenses by providing services in an efficient and effective manner. To this end, Fox diligently works to coordinate and facilitate the efficient prosecution of the matters for which it is employed. Staffing of matters within these Chapter 11 Cases is done with the objective of providing the level of representation appropriate to the significance, complexity, or difficulty of the particular matter. Due to the sensitive nature of bankruptcy matters, it is not always possible to delegate authority to persons with lower billing rates. However, given the nature of these Chapter 11 Cases, Fox has taken great care to coordinate tasks at the lowest billing rate possible and to coordinate with Debtors' other professionals to ensure there has been no duplication of effort on any task. On certain occasions, when more than one attorney attended a meeting or hearing, the attendance was necessary to adequately represent Debtors' interests and provide the context from which appropriate advice and counsel could be given.

19. Fox reviews all client billings for reasonableness and makes adjustments so that the charges are consistent with the value of the services provided. Fox charges hourly rates that are similar to, if not lower than, those rates charged by comparable law firms for similar legal services. See, e.g., In re Ginji Corp., 117 B.R. 983, 990 (Bankr. D. Nev. 1990). Fox's blended hourly rate,

not including paraprofessionals, during this First Interim Fee Period was **\$538.12**, which does not reflect the voluntary reductions made by Fox before filing the Invoices, the courtesy reductions or the Schultz Fees. Fox's combined blended hourly rate including attorneys and paraprofessionals during this First Interim Fee Period was **\$467.33**.¹⁰

20. Fox believes that the fees and expenses sought in this First Interim Fee Application are appropriate, and that the fees are reasonable and necessary in light of the circumstances of these Chapter 11 Cases and the scope and difficulty of the business and legal issues involved.

21. The following summary is intended to highlight a number of the services rendered by Fox in the separate project billing categories where Fox expended a considerable number of hours on behalf of Debtors.¹¹ It is not meant to be a detailed description of all of the work performed by Fox during the First Interim Fee Period. Detailed descriptions of the day-to-day services provided by Fox and the time expended performing such services in each project billing category are fully set forth in the invoices attached as Exhibit 1 to the Axelrod Declaration. Such detailed descriptions indicate the actual services performed and the attorneys and paraprofessionals who rendered services related to each of the task codes identified. The descriptions also demonstrate that Fox was heavily involved in the performance of services for Debtors on a regular basis, including late night/early morning, and weekend work that was often performed under extreme time pressure to meet the needs of Debtors:

a. Asset Analysis and Recovery (Task Code AA) Fees: \$70,091.00; Total Hours:

129.0

Fox attorneys spent time in this category researching priority of liens and competing security interests, analyzing potential claims against the estates and working on a perfection

¹⁰ This blended rate does not reflect the voluntary reductions taken by Fox prior to finalization of the Invoices. The total number of hours expended for the First Interim Fee Period, prior to finalization of the Invoices and excluding the time of Nathan Schultz, was 3,630.8. Taking this into consideration, the combined blended rate for attorneys and paraprofessionals is **\$444.26**.

¹¹ Each of the Invoices sets forth a summary chart of the time spent and fees incurred in each of the task code categories in which services were rendered for that respective Invoice. Copies of the Invoices are attached as Exhibit 1 to the Axelrod Declaration.

1 analysis. Fox reviewed the underlying agreements that were assigned pursuant to the settlement
 2 with Alternative Energy Financing, LLC (“AEF”), which included assignments of certain rebates
 3 and grants. In conjunction with the Debtors, Fox analyzed the ability to obtain these rebates and
 4 grants, including the Phase V Rebate held by AEF.

5 b. Litigation and Adversary Proceedings (Task Code AP) Fees: \$304,275.00;

6 Total Hours: 591.2

7 Fox prepared and filed notices of commencement of Debtors’ bankruptcy cases in all
 8 non-bankruptcy courts where litigation was pending. Fox Professionals also spent time in this
 9 category reviewing and analyzing pending litigation, as well as communicating with outside
 10 counsel regarding status of pending litigation and possible settlements.

11 Work in this category also included time spent preparing and filing with the court a
 12 *Complaint for Preliminary Injunction and Motion for Temporary Restraining Order and Order to*
 13 *Show Cause Why a Preliminary Injunction Should Not Issue*. Fox Professionals also reviewed
 14 Cathay Bank’s Opposition to the Motion for TRO and prepared and filed a Reply.

15 Time was spent in this category negotiating and drafting a confidentiality agreement
 16 with counsel for the Official Committee of Unsecured Creditors.

17 Fox professionals also spent considerable time reviewing and preparing a response
 18 and discovery to *Cathay Bank’s Motion For An Order Directing The Appointment Of A Chapter 11*
 19 *Trustee In These Bankruptcy Cases Pursuant To 11 U.S.C. § 1104(a) Or, Alternatively, Converting*
 20 *Or Dismissing These Bankruptcy Cases To Cases Under Chapter 7 Of The Bankruptcy Code*
 21 *Pursuant To 11 U.S.C. § 1112(b)* (the “Trustee Motion”).

22 Time was also spent responding to the Committee’s discovery requests, and
 23 compiling and reviewing documents for privilege.

24 Fox also reviewed and analyzed the Complaint for Declaratory Relief filed by
 25 Cathay Bank and researched Debtors’ responses thereto. Fox negotiated a stipulation to extend the
 26 deadline for filing an answer or response.

27 Fox also prepared and filed requests for Rule 2004 examinations on certain parties
 28 with outstanding accounts receivables due and owing to Debtors as well as a former employee and

1 other parties. Fox prepared subpoenas and reviewed discovery production as well as prepared for
2 the related depositions.

3 c. Business Operations (Task Code BO) Fees: \$80,088.30; Total Hours: 137.0

4 Fox worked closely with Debtors as they entered the role of debtors in possession of
5 their Chapter 11 estates. Fox professionals expended time in this category reviewing documents
6 provided by the Debtors regarding their businesses. Extensive time was spent analyzing existing
7 and new projects to determine the propriety of proceeding with such endeavors. Time spent in this
8 category also includes the review and analysis of Debtors' cash flow projections and budget.

9 d. Case Administration (Task Code CA) Fees: \$139,892.00; Total Hours: 322.3

10 Fox expended considerable time and effort on a variety of tasks that were necessary
11 to ensure the efficient and smooth administration of legal services related to these Chapter 11
12 Cases. Among other things, Fox (i) advised Debtors in connection with the chapter 11 process and
13 the associated duties and responsibilities attendant to a chapter 11 debtor; (ii) participated in
14 numerous teleconferences and (iii) assisted Debtors' management in interpreting and complying
15 with the provisions of the Bankruptcy Code, the Bankruptcy Rules, and other applicable statutes
16 and guidelines, as well as with the consideration of and compliance with certain deadlines imposed
17 by this Court or applicable authority. Time in this category was spent preparing various first day
18 motions and supporting declarations. Fox provided advice and assistance to Debtors with
19 management and administration of the pleadings and papers filed in these Chapter 11 Cases, service
20 lists, and hearing dates and deadlines. This category also includes the preparation and filing with
21 the court of the omnibus hearing agendas and updates to the Rule 2002 Service List in this case.
22 Work performed in this category also includes communications with the Court's staff regarding the
23 Court's preferences for filings, and the dissemination of such information to Debtors, their
24 professionals and counsel for Debtors' secured lender, and other parties, as applicable.

25 e. Court Hearings (Task Code CH) Fees: \$70,952.00; Total Hours: 129.7

26 In addition to preparation and attendance at the hearings on Debtors' First Day
27 Motions, Fox attorneys prepared for and attending hearings on the applications to employ Debtors'
28 professionals, the *Motion to Assume Lease or Executory Contract Motion to Assume Settlement*

1 *Agreement with Alternative Energy Financing, LLC, the Motion to Compel Debtor to Accept or*
 2 *Reject Executory Contract and for Court Direction as to Property, the Motion Regarding Notice Of*
 3 *Designation Of Responsible Person, the Motion for Authority to Pay Certain Subcontractor Claims,*
 4 *the Application of the Official Committee of Unsecured Creditors Pursuant to 11 U.S.C. §§*
 5 *1102(b)(3)(A) and 1103(c) for Entry of an Order Clarifying its Requirement to Provide Access to*
 6 *Information Under 11 U.S.C. §1102(b)(3)(A), the Application to Employ Carlyon Law Group,*
 7 *PLLC as Special Counsel to the Debtor via Roland Kiser and Klaus Bernhart, Its Responsible*
 8 *Officers, Request for Approval of Nunc Pro Tunc Employment Effective February 27, 2014, the*
 9 *Applications to Employ to Employ Pachulski Stang Ziehl & Jones LLP and Larson & Zirzow, LLC*
 10 *as Counsel to Official Committee of Creditors of Martifer Solar USA, Inc., the Motion for Order*
 11 *Authorizing Debtors to Engage FTI Consulting, Inc. as (1) Chief Restructuring Officer and Certain*
 12 *Other FTI Professionals as Temporary Employees to Debtors Pursuant to Bankruptcy Code Section*
 13 *363 Nunc Pro Tunc to March 6, 2014, the Motion for Order Pursuant to 11 U.S.C. §§ 105(a) and*
 14 *331, and Fed. R. Bankr. P. 2016, Authorizing and Establishing Procedures for Interim*
 15 *Compensation and Reimbursement of Expenses of Professionals; and the Motion for Order to*
 16 *Amend Case Management, Notice and Administrative Procedures.*

17 f. Creditor Inquiries (Task Code CI) Fees: \$2,939.50; Total Hours: 7.6

18 This category includes general communications with creditors in response to
 19 telephone calls and/or written correspondence regarding the Chapter 11 Cases.

20 g. Cash Collateral/DIP Financing (Task Code CR) Fees: \$198,442.00; Total
 21 Hours: 377.4

22 Fox prepared and filed a motion on the Petition Date seeking authorization to use
 23 Cathay Bank's cash collateral and provide adequate protection which was heavily contested by the
 24 secured lender. Debtors sought and were granted interim authorization to use cash collateral
 25 pending a final hearing on the cash collateral motion in order to avoid immediate and irreparable
 26 harm to the estate. Debtors also negotiated a DIP Loan in order to provide additional post-petition
 27 liquidity. Debtors filed a motion seeking approval for the DIP Loan, which motion was granted on
 28 an interim basis by the Bankruptcy Court. Fox participated in numerous settlement discussions

between Debtors, Martifer Solar Inc., Cathay Bank, the U.S. Trustee and the Committee and prepared and filed numerous stipulations continuing the final hearings on the Cash Collateral Motion, Second Amended DIP Financing Motions and the Trustee Motion.

h. Disclosure Statement (Task Code DS) Fees: \$27,051.00; Total Hours: 53.7

Fox professionals worked closely and diligently with Debtors' management, advisors, counsel for the Official Committee of Unsecured Creditors and other constituencies in these Chapter 11 Cases to form and prepare Debtors' disclosure statement. Time in this category was also spent preparing a Motion to Approve Disclosure Statement and related pleadings.

i. Employment Application of Fox Rothschild LLP (Task Code EA1) Fees:

\$23,746.50; Total Hours: 58.9

Tasks in this category include, but are not limited to, the preparation, filing and service of Debtors' application to retain Fox as counsel for Debtors and related pleadings, and pro hac vice admissions for Fox counsel. Additionally, time in this category was spent reviewing and clearing conflicts.

j. Employment Application of Other Professionals (Task Code EA2) Fees:

\$70,063.00; Total Hours: 176.3

This category includes all matters related to preparing Debtors' applications to retain professionals other than Fox, including Armory Consulting Co., as Financial Advisor To Debtors, Wolf, Rifkin, Shapiro, Schulman & Rabkin LLP, as California Litigation Counsel, Foley Hoag LLP, as Special Massachusetts Litigation, and Shea Labagh Dobberstein, as Debtors' Accountant and Foley Lardner LLP, as Special Solar Counsel (collectively, the "Debtors' Professionals"). Significant work in this category is related to review, analysis, research and negotiations regarding the *Application for Order Authorizing Retention and Employment of Carlyon Law Group, PLLC as Special Counsel to Roland Kiser and Klaus Bernhart, Responsible Officers of the Debtor Effective February 27, 2014* and preparation and filing of an opposition thereto. Time was also spent in this category reviewing the applications of the Official Committee of Unsecured Creditors to employ Pachulski Stang Ziehl & Jones LLP and Larson and Zirzow as counsel to the Committee.

k. Employee Matters (Task Code EB) Fees: \$119,544.00; Total Hours: 234.6

This category includes preparation and filing of a *Motion For An Order: (I) Authorizing Debtor To Pay Prepetition Employee Salaries And Benefits; And (II) Authorizing And Directing Financial Institutions To Honor Checks Related To Such Obligations*. Time spent in this category also includes all matters related to preparation of *Debtors' Motion for Entry of an Order Approving Key Employee Incentivization Plan* and reviewing and responding to objections thereto. Fox also spent time reviewing Debtors' employment contracts of Klaus Bernhart and Roland Kiser and attended to issues arising in connection with those agreements. Time in this category also includes review and analysis of the Raffi Agopian Employment and Settlement Agreements. Fox professionals also spent time in this category pursuing possible breach of confidentiality in connection with former employ that went to work for a competitor. Fox assisted with various immigration matters.

1. Lease/Executory Contract Issues (Task Code EC) Fees: \$68,686.50; Total Hours: 141.5

This category involves Debtors' executory contracts and leases. Time spent in this category includes negotiating the assumption of the Settlement Agreements with Alternative Energy Financing and Panasonic Eco Solutions. Fox also spent time in this category preparing and filing the Motion to Assume Settlement Agreement with Alternative Energy Financing, LLC, review the opposition filed the U.S. Trustee and preparing and filing a response thereto.

m. Fee Application of Fox Rothschild (Task Code FA1) Fees: \$9,300.00; Total Hours: 26.9

This category includes review and revision of Fox's monthly invoices for proper task code categorization and timekeeper entries, as well as review of entries and expenses for potential write-off. Work in this category also includes preparation, filing and service of Fox's first interim fee application for the period January 21, 2014 through April 30, 2014.

- 1 n. Fee Application of Other Professionals (Task Code FA2) Fees: \$13,994.50;
 2 Total Hours: 47.7

3 This category includes preparation, filing and service of Debtors' Professionals' first
 4 monthly fee applications and first interim fee applications. Fox conducted research on various
 5 issues specific to certain applications. Fox professionals also prepared and filed with the Court the
 6 Application for Authorization of Compensation of Peter Kravitz of Solution Trust as Independent
 7 Director of Martifer Solar USA, Inc. and Indemnification of Solution Trust.

- 8 o. General Corporate Matters (Task Code MA) Fees: \$61,250.50; Total Hours:
 9 112.3

10 This category includes time spent responding to audit request. Fox Professionals
 11 also review minutes of the Debtors' board of directors and analyzed corporate responsibilities and
 12 access to information.

- 13 p. Meeting of Creditors (Task Code MC) Fees: \$67.50; Total Hours: 0.1

14 This category includes Fox's preparation for and attendance at Debtors' 341 meetings
 15 of creditors.

- 16 q. Stay Relief Matters (Task Code MR) Fees: \$11,969.50; Total Hours: 26.4

17 This category includes review, research and analysis of stay relief matters, including
 18 violations of the automatic stay and preparation of correspondence and communications with
 19 parties on stay violations.

- 20 r. Claims, Analysis, Objections & Resolutions (Task Code PC) Fees:
 21 \$152,565.50; Total Hours: 283.2

22 This category includes time spent reviewing and analyzing claims asserted and
 23 proofs of claims filed against Debtors' estates. Fox worked with Debtors and FTI in analyzing
 24 Debtors' Master Project List for warranty claim rejections, creditor claims and the proposed manner
 25 of handling such claims. Work in this category included research regarding motion to reject and
 26 preparation of summary of issues to be addressed in motion. Fox professionals also spent time on
 27 due diligence issues in connection with various mechanic's liens. Fox also spent time negotiating
 28 settlement of claims with Chatsmouth/Solar Optimum, Panasonic Eco Solutions, and Stone River.

1 Fox also prepared and filed with the Court a 9019(b) Motion seeking approval of the Settlement
 2 Agreement Chatsmouth/Solar Optimum and a Motion for Order Authorizing Payment of Critical
 3 Vendor Claim and prepared a Motion to Approve Settlement Agreement with Panasonic Eco
 4 Solutions. Fox also spent time in this category on legal research in connection with marshalling of
 5 assets, priority issues, and subrogation for purchase of surety claim. Additional time in this
 6 category was spent researching effect of automatic stay in connection with possible claims of
 7 former management.

8 s. Plan (Task Code PL) Fees: \$118,685.50; Total Hours: 180.4

9 Fox professionals worked closely and diligently with Debtors' management,
 10 advisors and other constituencies in these Chapter 11 Cases to develop and formulate Debtors' plan
 11 of reorganization. Fox also drafted and negotiated Plan term sheets.

12 t. Use, Sale Or Lease of Property (Task Code SA) Fees: \$112,705.00; Total
 13 Hours: 211.5

14 Fox worked closely with Debtors' financial professionals to develop bidding
 15 procedures for the sale of Debtors' Assets to maximize the value of the Assets for Debtors' estates.
 16 The Bidding Procedures constitute a reasonable and effective method of maximizing a return on the
 17 Assets through a competitive sale process. Fox also prepared the Motion for an order approving
 18 and authorizing the bidding procedures in connection with the sale of substantially all of the
 19 operating assets of Debtors, and the form and manner of notice of the sale hearing and related
 20 pleadings. Fox professionals also review and analyzed various letters of intent in response to
 21 Debtors' marketing efforts and responded to due diligence questions. Tasks in this category also
 22 include the preparation and filing of the Motion for Authority to Pay Certain Subcontractor Claims,
 23 review of Cathay Bank's objection thereto and preparation and filing of a response. Significant
 24 time in this category related to negotiation, research and preparation of the Motion to Employ FTI
 25 Consulting, Inc. as Chief Restructuring Officer and Certain Other FTI Professionals as Temporary
 26 Employees to Debtors.

27 u. Trustee Reporting/Schedules (Task Code TR) Fees: \$57,949.00; Total Hours:
 28 156.6

Work in this category includes communications with the Office of the U.S. Trustee and compliance with the U.S. Trustee's requests for information and documentation requests for Debtors' initial debtor interview, as well as preparation for and attendance at Debtor's initial debtor interview. Time spent in this category also includes all matters related to preparation and filing of Debtors' chapter 11 schedules and statement of financial affairs. Fox also reviewed and filed Debtors' monthly operating reports and other required disclosures.

v. Intra Office Conferences/Multi Person Activities (Task Code IC) Fees:

\$2,532.00; Total Hours: 5.6

This category includes time spent by Fox conducting internal meetings and strategy calls in connection with various issues in connection with these Chapter 11 Cases.

w. Travel (Task Code TV) Fees: \$6,164.75; Total Hours: 33.0

This category includes all of Fox's non-working travel time, for which Fox seeks compensation of one-half of its professionals' time.

x. Tax/505 (Task Code TX) Fees: \$2,563.00; Total Hours: 5.1

Fox spent time in this category analyzing the tax implications associated with Debtors' Chapter 11 Plan for inclusion in Debtor's disclosure statement.

y. Commercial Contracts (106375.1) Fees: \$20,758.00; Total Hours: 43.1

Fox is providing ongoing legal counsel primarily in two areas: employment and corporate governance. Specifically, Fox is advising Martifer on personnel departures, including the protection of Martifer's proprietary information and trade secrets as some personnel have left to join competitors of the company. Fox also advises Martifer's officers on, and drafts documentation for, corporate actions that require the approval of the board of directors and/or of the shareholders.

z. JeffCo (106375.3) Fees: \$1,404.50; Total Hours: 5.6

JeffCo owes Martifer USA approximately \$1.6 million and time in this category relates to efforts to collect on the arbitration award.

aa. Energy Equipment Ltd. Litigation (106375.6) Fees: \$51,195.00; Total Hours:

126.5

Martifer USA and Energy Equipment Limited ("EEL") entered into a number of

1 Engineering, Procurement and Construction Agreements to design, procure and construct
 2 photovoltaic power plants in certain locations. Disputes exist between the parties with respect to
 3 four of the EEL Projects and time spent in this category relates to litigation of the issues and
 4 attempts to negotiate a resolution of the disputes.

5 VALUATION OF SERVICES

6 Fox has extensive experience and knowledge in the field of debtors' and creditors' rights
 7 and business reorganizations under chapter 11 of the Bankruptcy Code and familiarity with the facts
 8 and circumstances surrounding these Chapter 11 Cases, as well as Fox's extensive expertise and
 9 experience practicing before this Court. As such, Fox is uniquely qualified to represent Debtors'
 10 interests with respect to Debtors' businesses and financial affairs and the potential legal issues that
 11 have arisen and may yet arise in these Chapter 11 Cases.

12 Fox's attorneys and paraprofessionals have expended a total of 3,451.5 hours¹² rendering
 13 professional services to or on behalf of Debtors in connection with these Chapter 11 Cases during
 14 the First Interim Fee Period, as detailed in the Summary of Professionals chart set forth above. The
 15 nature of the work performed by these individuals is fully set forth in the Invoices attached as
 16 Exhibit 1 to the Axelrod Declaration. The hourly rates charged are Fox's normal hourly rates for
 17 work of this type in chapter 11 cases. Thus, the reasonable value of the professional services
 18 rendered by Fox to or on behalf of Debtors during the First Interim Fee Period is \$1,613,005.90.¹³

19 In accordance with the factors enumerated in Bankruptcy Code section 330, Fox respectfully
 20 submits that the Requested Compensation is fair and reasonable given (a) the complexity of these
 21 Chapter 11 Cases, (b) the time expended, (c) the nature and extent of the services rendered, (d) the
 22 value of such services, and (e) the costs of comparable services in a case other than under this title.

25 ¹² Prior to the write-down of the Invoices, Fox attorneys and paraprofessionals (excluding
 26 Nathan Schultz) expended a total of 3,630.8 hours for professional services to or on behalf of
 27 Debtors in connection with these Chapter 11 Cases during the First Interim Fee Period.

28 ¹³ See supra n. 1.

1 **CONCLUSION**

2 WHEREFORE, Fox respectfully requests that the Court enter an order approving the
3 allowance and authorizing Debtors' payment to Fox of the interim compensation in the amount of
4 \$1,613,005.90 in fees incurred for necessary professional services rendered and \$19,562.48 as
5 reimbursement of actual, reasonable and necessary costs and expenses paid during the interim fee
6 period from January 21, 2014, through April 30, 2014, for a total of \$1,632,568.38, and for such
7 other and further relief as the Court may deem just and proper.

8 DATED this 12th day of May, 2014.

9 **FOX ROTHSCHILD LLP**

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